

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF NURSING

In the Matter of Jeanne M. Carlson, R. N.
License No. 123178-4, L.P.N. License No.
40763-2.

**FINDINGS OF FACT, CONCLUSIONS
AND RECOMMENDATION**

This matter came on for a Prehearing Conference before Chief Administrative Law Judge Kenneth A. Nickolai at 1:30 p.m. on September 5, 2002, at the Minnesota Board of Nursing, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota 55414. Ruth E. Flynn, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101-2131, appeared on behalf of the Board of Nursing. Jeanne M. Carlson ("Respondent") did not appear in person or by counsel. The hearing concluded on September 5, 2002, and there were no later submissions.

This report is a recommendation, not a final decision. The Minnesota Board of Nursing will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions and Recommendation. Under Minn. Stat. § 14.61 (2000), the Board shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report and the Board must consider the exceptions in make a final decision. Parties should contact the Board of Nursing, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota 55414 to learn the procedure for filing exceptions or presenting argument. If the Board fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Board, or upon the expiration of the deadline for doing so. The Board must notify the parties and the Administrative Law Judge of the date on which the record closes.

STATEMENT OF ISSUES

1. Is the Respondent actually or potentially unable to practice nursing with reasonable skill and safety to patients?
2. Has the Respondent made false statements, knowingly provided false information to the Board of Nursing or failed to cooperate with an investigation of the Board?
3. Does the Respondent's conduct constitute grounds for disciplinary action by the Board?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On August 5, 2002, the Notice of and Order for Prehearing Conference and Hearing was served by First Class mail upon Jeanne M. Carlson, 308 Forest Street, St. Paul, Minnesota 55106, her last known address on file with the Board of Nursing. It notified the Respondent of the Prehearing Conference scheduled for September 5, 2002. The Notice was not returned by the Post Office.

2. On September 5, 2002, the Respondent failed to appear at the Prehearing Conference or to notify the Board or the Administrative Law Judge that she was unable to appear.

3. The Notice of and Order for Prehearing Conference and Hearing informed Respondent that if she failed to appear at the Prehearing Conference the allegations against her, set forth in the Notice, could be taken as true and a default order could be issued. She was informed that such an order could result in disciplinary action, including loss of license, and that the Board could require her to pay all costs of the proceedings resulting in this action, and a civil penalty.

4. Because the Respondent failed to appear, she is in default.

5. Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of and Order for Prehearing Conference and Hearing are taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Board of Nursing and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 148.261 and 214.103, subd. 7 (2000).

2. The Board has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The facts set out in the Notice of and Order for Prehearing Conference and Hearing constitute violations of Minn. Stat. §§ 148.261, subds. 1(9) and 1(23) (2000) and 148.265 (2000). These statutes provide that disciplinary action may be taken for the following reasons:

- a. Actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of any mental or physical condition;
- b. Making a false statement or knowingly providing false information to the board, failing to make reports to the Board or failure to cooperate with an investigation of the Board.

4. Respondent's conduct constitutes grounds for the Board to take disciplinary action against the Respondent.

Based upon the forgoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Board take disciplinary action against Jeanne M. Carlson, R. N. License No. 123178-4, L.P.N. License No. 40763-2.

Dated this 12th day of September, 2002.

s/Kenneth A. Nickolai
KENNETH A. NICKOLAI
Chief Administrative Law Judge

Reported: Default

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1 (2000), the Board is required to serve its final decision upon each party and the Administrative Law Judge by First Class mail. If the Board fails to issue a final decision within 90 days of the close of the record under Minn. Stat. § 14.61, this Report becomes a final decision. In order to comply with Minn. Stat. § 14.62, subd. 2a, the Board must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed.

MEMORANDUM

The Respondent did not appear at the hearing to refute the allegations against her nor did she contact the Board or the Administrative Law Judge to ask for a continuance of this matter. The facts alleged by the Board are taken as true. Absent any evidence to the contrary, the facts reasonable support the conclusions.

K.N.